

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF OKLAHOMA

FILED

JAN - 7 2013

ERIC THOMPSON, as parent and next friend)
of R.T., a minor, and A.T., a minor,¹)

Plaintiffs,)

vs.)

OAKDALE SCHOOLS, CONSOLIDATED)
SCHOOL DISTRICT NO. 29 OF OKLAHOMA)
COUNTY, et al.,)

Defendants.)

ROBERT D. DENNIS, CLERK
U.S. DIST. COURT, WESTERN DIST. OKLA.
BY W, DEPUTY

No. CIV-11-1335-W

ORDER

On November 1, 2012, Eric Thompson, as parent and next friend of R.T., a minor, and A.T., a minor, filed a second amended complaint asserting claims against, among other defendants, Oakdale Schools, Consolidated School District No. 29 of Oklahoma County ("Oakdale"). The minor plaintiffs have sought relief against Oakdale under title 42, section 1983 of the United States Code for alleged misconduct that occurred during the 2008-2009 school year. In particular, the minor plaintiffs have alleged in their amended pleading that Oakdale violated and/or, together with its co-defendants, conspired to violate, their rights under the first, fifth and fourteenth amendments to the United States Constitution.

The matter now comes before the Court on Oakdale's Motion to Dismiss Plaintiffs' Second Amended Complaint. R.T. and A.T. have responded in opposition.

¹Because Eric Thompson is no longer asserting any claims on his own behalf, see Doc. 53 at 1 n.1, the Court has removed the reference to Eric Thompson's individual capacity from the title of this action.

Oakdale has asserted only two grounds in support of its request for dismissal. Both lack merit. First, despite the fact that R.T. and A.T. have asserted no state law claims against this defendant in the second amended complaint, Oakdale has argued that the plaintiffs' state law tort claims are barred by the Oklahoma Governmental Tort Claims Act, 51 O.S. § 151 et seq.

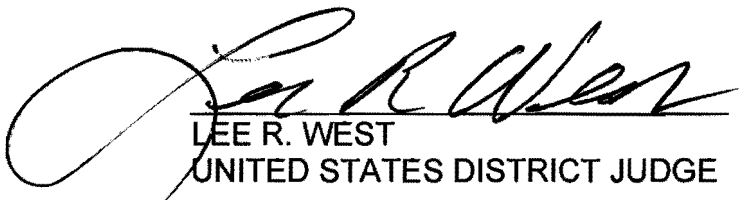
Second, the Court has already determined that the federal law claims asserted on behalf of the minor children are not time-barred and that the two-year limitations period imposed by title 12, section 95(A)(3) has been tolled by the minor children's legal disability. See Doc. 29 at 6-7 n.6. Oakdale's arguments that the minor plaintiffs' federal law claims are time-barred therefore provides no basis for relief.

Accordingly, the Court

(1) DECLINES the plaintiffs' request under Rule 12(f), F.R.Civ.P., to strike Oakdale's Motion to Dismiss Plaintiffs' Second Amended Complaint, but

(2) FINDS that Oakdale's Motion to Dismiss Plaintiffs' Second Amended Complaint [Doc. 56] filed on November 21, 2012, should be and is hereby DENIED.

ENTERED this 7th day of January, 2013.


LEE R. WEST
UNITED STATES DISTRICT JUDGE